

STATE OF WISCONSIN  
**Senate Journal**  
Ninety–Fifth Regular Session

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THURSDAY, April 26, 2001

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The Chief Clerk makes the following entries under the above date.

**INTRODUCTION, FIRST READING AND  
REFERENCE OF BILLS**

Read first time and referred:

**Senate Bill 161**

Relating to: permitting the juvenile court to grant summary judgment in a termination of parental rights proceeding and prohibiting the juvenile court from granting a termination of parental rights based on an order placing a child in need of protection or services outside the home or denying parental visitation with such a child that does not warn the parent of any applicable termination of parental rights grounds and of the conditions necessary for the child to be returned to the home or for the parent to be granted visitation.

By Senators Huelsman, A. Lasee, Darling and Roessler; cosponsored by Representatives Huebsch, Ziegelbauer, Owens, Gunderson, Starzyk and Hahn.

To committee on **Judiciary, Consumer Affairs, and Campaign Finance Reform.**

**Senate Bill 162**

Relating to: creating an administrative rules task force and making an appropriation.

By Senators Welch and Huelsman; cosponsored by Representatives Suder, Urban, Musser, Staskunas, Hoven, Gronemus, Jeskewitz, Townsend, Albers, McCormick and Seratti.

To joint committee for **Review of Administrative Rules.**

**REPORT OF COMMITTEES**

The committee on **Environmental Resources** reports and recommends:

**Assembly Bill 98**

Relating to: fishing with a bow and arrow near a roadway.

Concurrence.

Ayes, 5 – Senators Baumgart, Hansen, Wirch, Cowles and Schultz.

Noes, 0 – None.

**Senate Bill 66**

Relating to: certain applicants for preference points under the cumulative preference system for issuing Class A bear hunting licenses.

Passage.

Ayes, 5 – Senators Baumgart, Hansen, Wirch, Cowles and Schultz.

Noes, 0 – None.

Jim Baumgart  
Chairperson

The committee on **Finance** reports and recommends:

**Senate Bill 33**

Relating to: a state minimum wage, providing an exemption from emergency rule procedures, providing an exemption from rule-making procedures, granting rule-making authority, and providing a penalty.

Report Passage, with emergency statement (s. 16.47 Wisconsin Statutes).

Ayes, 6 – Senators Burke, Decker, Moore, Shibilski, Plache and Wirch.

Noes, 2 – Senators Darling and Welch.

Brian Burke  
Chairperson

The committee on **Insurance, Tourism, and Transportation** reports and recommends:

**Assembly Bill 110**

Relating to: access by law enforcement agencies to photographs taken for drivers' licenses and identification cards.

Concurrence.

Ayes, 5 – Senators Breske, Grobschmidt, Baumgart, A. Lasee and Farrow.

Noes, 0 – None.

**Senate Bill 102**

Relating to: the prohibition against underage persons entering or being on any premises operating under an alcohol beverage license.

Passage.

Ayes, 4 – Senators Breske, Grobschmidt, Baumgart and A. Lasee.

Noes, 1 – Senator Farrow.

**Senate Bill 43**

Relating to: nonmoving traffic violations involving rented or leased motor vehicles.

Introduction and adoption of Senate substitute amendment 1.

Ayes, 5 – Senators Breske, Grobschmidt, Baumgart, A. Lasee and Farrow.

Noes, 0 – None.

Passage as amended.

Ayes, 5 – Senators Breske, Grobschmidt, Baumgart, A. Lasee and Farrow.

Noes, 0 – None.

**Senate Bill 57**

Relating to: creating a permit authorizing the operation upon a highway of a specialized hauling rig that exceeds statutory size and weight limits.

Passage.

Ayes, 4 – Senators Breske, Grobschmidt, A. Lasee and Farrow.

Noes, 1 – Senator Baumgart.

Roger Breske  
Chairperson

The committee on **Universities, Housing, and Government Operations** reports and recommends:

**Assembly Bill 135**

Relating to: the requirement to obtain a public warehouse keeper's license.

Concurrence.

Ayes, 7 – Senators M. Meyer, Moore, Grobschmidt, Hansen, Ellis, Huelsman and Zien.

Noes, 0 – None.

**Assembly Bill 35**

Relating to: changing the bonding requirements for city, village, and county officers.

Concurrence.

Ayes, 7 – Senators M. Meyer, Moore, Grobschmidt, Hansen, Ellis, Huelsman and Zien.

Noes, 0 – None.

BUBOLZ, JOHN, of Appleton, as a member of the College Savings Program Board, to serve for the term ending May 1, 2003.

Confirmation.

Ayes, 7 – Senators M. Meyer, Moore, Grobschmidt, Hansen, Ellis, Huelsman and Zien.

Noes, 0 – None.

BUESTRIN, MARY F., of Mequon, as a member of the State Historical Society Board of Curators, to serve for the term ending July 1, 2003.

Confirmation.

Ayes, 7 – Senators M. Meyer, Moore, Grobschmidt, Hansen, Ellis, Huelsman and Zien.

Noes, 0 – None.

EHR SAM, JAMES, of La Crosse, as a member of the Land Information Board, to serve for the interim term ending May 1, 2001, and for the full term ending May 1, 2007.

Confirmation.

Ayes, 7 – Senators M. Meyer, Moore, Grobschmidt, Hansen, Ellis, Huelsman and Zien.

Noes, 0 – None.

FARROW, MARGARET A., of Pewaukee, as Lieutenant Governor, pursuant to Article XIII, section 10 (2) of the Wisconsin Constitution.

Confirmation.

Ayes, 6 – Senators M. Meyer, Grobschmidt, Hansen, Ellis, Huelsman and Zien.

Noes, 1 – Senator Moore.

FERNHOLZ, JOHN "JAY", of Holmen, as a member of the Examining Board of Architects, Landscape Architects, Professional Geologists, Professional Engineers, Designers and Land Surveyors, to serve for the term ending July 1, 2004.

Confirmation.

Ayes, 7 – Senators M. Meyer, Moore, Grobschmidt, Hansen, Ellis, Huelsman and Zien.

Noes, 0 – None.

HASSLINGER, MICHAEL J., of Waukesha, as a member of the Land Information Board, to serve for the term ending May 1, 2005.

Confirmation.

Ayes, 7 – Senators M. Meyer, Moore, Grobschmidt, Hansen, Ellis, Huelsman and Zien.

Noes, 0 – None.

JOHNSON, RUTH G., of Madison, as a member of the Examining Board of Architects, Landscape Architects, Professional Geologists, Professional Engineers, Designers and Land Surveyors, to serve for the term ending July 1, 2004.

Confirmation.

Ayes, 7 – Senators M. Meyer, Moore, Grobschmidt, Hansen, Ellis, Huelsman and Zien.

Noes, 0 – None.

JOHNSON, NORBERT J., of Milton, as a member of the Accounting Examining Board, to serve for the term ending July 1, 2002.

Confirmation.

Ayes, 7 – Senators M. Meyer, Moore, Grobschmidt, Hansen, Ellis, Huelsman and Zien.

Noes, 0 – None.

LEE, DANIEL F., of Portage, as a member of the Wisconsin Housing and Economic Development Authority, to serve for the term ending January 1, 2003.

Confirmation.

Ayes, 7 – Senators M. Meyer, Moore, Grobschmidt, Hansen, Ellis, Huelsman and Zien.

Noes, 0 – None.

ROMPORTL, MICHAEL J., of Rhineland, as a member of the Land Information Board, to serve for the term ending at the pleasure of the Governor.

Confirmation.

Ayes, 7 – Senators M. Meyer, Moore, Grobschmidt, Hansen, Ellis, Huelsman and Zien.

Noes, 0 – None.

RUF, J. FREDERIC "FRITZ", of Pewaukee, as a member of the Wisconsin Housing and Economic Development Authority, to serve for the interim term ending February 1, 2001, and for the full term ending February 1, 2003.

Confirmation.

Ayes, 7 – Senators M. Meyer, Moore, Grobschmidt, Hansen, Ellis, Huelsman and Zien.

Noes, 0 – None.

SENTY, JAMES A., of La Crosse, as a member of the State of Wisconsin Investment Board, to serve for the interim term ending May 1, 2005.

Confirmation.

Ayes, 7 – Senators M. Meyer, Moore, Grobschmidt, Hansen, Ellis, Huelsman and Zien.

Noes, 0 – None.

WOLFF, MICHAEL D., of Madison, as a member of the College Savings Program Board, to serve for the term ending May 1, 2003.

Confirmation.

Ayes, 7 – Senators M. Meyer, Moore, Grobschmidt, Hansen, Ellis, Huelsman and Zien.  
Noes, 0 – None.

ZILLMER, ANN M., of Black River Falls, as a member of the Land Information Board, to serve for the term ending May 1, 2005.

Confirmation.

Ayes, 7 – Senators M. Meyer, Moore, Grobschmidt, Hansen, Ellis, Huelsman and Zien.  
Noes, 0 – None.

**Senate Bill 110**

Relating to: polling hours, time off from work for service as an election official, training of election officials, voting by felons and immigrants, requiring studies and recommendations with regard to voter registration and multilingual voting needs, establishing satellite stations for purposes of conducting voter registration and absentee voting, and granting rule-making authority.

Introduction and adoption of Senate amendment 1.

Ayes, 7 – Senators M. Meyer, Moore, Grobschmidt, Hansen, Ellis, Huelsman and Zien.  
Noes, 0 – None.

Passage as amended.

Ayes, 4 – Senators M. Meyer, Moore, Grobschmidt and Hansen.  
Noes, 3 – Senators Ellis, Huelsman and Zien.

**Senate Bill 138**

Relating to: the publication of notices relating to the creation of tax incremental financing districts.

Passage.

Ayes, 7 – Senators M. Meyer, Moore, Grobschmidt, Hansen, Ellis, Huelsman and Zien.  
Noes, 0 – None.

**Senate Bill 144**

Relating to: state purchase of a Justice Center building and granting bonding authority.

Passage.

Ayes, 7 – Senators M. Meyer, Moore, Grobschmidt, Hansen, Ellis, Huelsman and Zien.  
Noes, 0 – None.

**Senate Bill 146**

Relating to: the college tuition and expenses program and the college savings program, providing an exemption from emergency rule procedures, and making appropriations.

Introduction and adoption of Senate amendment 1.

Ayes, 7 – Senators M. Meyer, Moore, Grobschmidt, Hansen, Ellis, Huelsman and Zien.  
Noes, 0 – None.

Passage as amended.

Ayes, 7 – Senators M. Meyer, Moore, Grobschmidt, Hansen, Ellis, Huelsman and Zien.  
Noes, 0 – None.

**Senate Bill 5**

Relating to: reimbursement of emergency response teams and granting rule-making authority.

Senate amendment 1 adoption.

Ayes, 7 – Senators M. Meyer, Moore, Grobschmidt, Hansen, Ellis, Huelsman and Zien.  
Noes, 0 – None.

Passage as amended.

Ayes, 7 – Senators M. Meyer, Moore, Grobschmidt, Hansen, Ellis, Huelsman and Zien.  
Noes, 0 – None.

Mark Meyer  
Chairperson

**PETITIONS AND COMMUNICATIONS**

**State of Wisconsin  
Office of the Secretary of State**

To the Honorable, the Senate:

<u>Bill, Joint Reso- lution or Resolu- tion Number</u>	<u>Act Number or Enrolled Number</u>	<u>Publication Date</u>
<b>Senate Bill 7</b>	Wisconsin Act 5	May 7, 2001

Sincerely,  
DOUGLAS LA FOLLETTE  
Secretary of State

**State of Wisconsin  
Department of Justice**

April 24, 2001

The Honorable, The Senate:

The Senate Committee on Organization has asked for my opinion on the compensation to be paid to the Lieutenant Governor ("Lt. Governor") upon confirmation by both houses of the Legislature. Governor McCallum has nominated State Senator Margaret Farrow to the Office of the Lieutenant Governor pursuant to article 13, s. 10 (2) of the Wisconsin Constitution.

Wisconsin Stat. s. 13.04(4) provides:

"Any incumbent member of the legislature who, during the term for which the member was elected to the legislature, by appointment or election assumes any judicial office or state civil office or position for which the compensation or other emoluments were increased during the member's current legislative term by legislative action, or by any other official action requiring the assent of or subject to veto by the legislature, shall be entitled to the compensation or other emoluments for such office or position only at the rate in effect prior to such increase."

Your request for an opinion included a memorandum from the Wisconsin Legislative Council. That memorandum states that Senator Farrow was elected to her current term in November 1998, and her term began in January 1999. At that time, the rate of pay for the Office of Lt. Governor was \$60,183 per year. The salary of the Lt. Governor is set under Wis. Stats. s. 20.923(2)(g) at 1.9% above the minimum of the salary range for executive salary group four. The Legislative Council memorandum indicates that the current salary for the Lt. Governor is \$63,672 per year. The Joint Committee on Employment Relations ("JCOER") approved two increases during Senator Farrow's current term. On June 9, 1999, and May 2, 2000, JCOER raised the minimum of the salary range applicable to executive salary group four, thereby increasing the rate of pay for the Office of Lt. Governor. JCOER approves the compensation plan under Wis. Stats. s. 230.12 (3).

The Legislative Council memorandum, at 2, concludes: “[I]t is arguable that s. 13.04(4), Stats, would limit her compensation to that provided for the Office of Lieutenant Governor prior to the increases occurring during her term. Under that interpretation, she would be limited to \$60,183 per year.”

The author of the Legislative Council memorandum found there was some doubt about the application of Wis. Stats. s. 13.04(4) because one could argue that the action of a single committee, JCOER, was not “legislative action” or “other official action” as required by Wis. Stat. s. 13.04(4). Under this analysis, the purpose of Wis. Stats. s. 13.04(4) is to prohibit legislators from benefitting from a self-enacting pay increase, but since Senator Farrow was not a member of JCOER, she did not vote on the action and, thus, should not be prohibited from receiving the higher salary. That memorandum concludes, however, that notwithstanding that argument the better conclusion is that Wis. Stats. s. 13.04(4) does apply. I agree.

JCOER is created by the Legislature. Wis. Stat. s. 13.111. The Legislature has delegated certain authority to that committee. Such a delegation is proper. See *Cuts v. Department of Public Welfare*, 1 Wis. 2d 408, 414, 84 N.W.2d 102 (1957). (Legislature could delegate the authority to select a site for a new state boy’s school to a committee.) *Accord Outagamie County v. Smith*, 38 Wis. 2d 24, 39, 155 N.W.2d 639 (1968). If the term “legislative action” in Wis. Stat. s. 13.04(4) did not include actions taken by JCOER, any member of the Legislature who was not on the Joint Committee would not be subject to the statutes strictures. Under that reading of the statute, only members of the Joint Committee, by statute the leadership of both houses, Wis. Stat. s. 13.111, would be prohibited from accepting offices for which the compensation had been increased. That interpretation would mean that Wis. Stats s. 13.04(4) which on its face is applicable to all legislators, would apply only to members of the Joint Committee: the vast majority of the members of the Legislature would escape the statute’s strictures by the expedient of delegating to a committee the authority to raise legislators’ salaries.

In 63 Op. Att’y Gen. 128 (1974) former Attorney General Robert Warren discussed the interaction of Wis. Stats s. 13.04 and article 4, s. 12 of the Wisconsin Constitution. The opinion concluded that a legislator who was elected to a different state office during his or her term as legislator would be limited by Wis. Stats s. 13.04 to the salary prior to the increase during his or her term as legislator. The law then was essentially the same as the law now. Present Wis. Stat. s. 13.04(4) was then Wis. Stat. s. 13.04(1)(d). The salaries of the lieutenant governor and other constitutional officers were tied to the salaries in executive salary groups. Wis. Stat. s. 20.923 (1973). JCOER approved the compensation plan. Wis. Stat. s. 16.086(3)(b) (1973). The opinion assumed, quite correctly, that the actions of JCOER constituted “legislative action” or “other official action.”

I must conclude that under Wis. Stat. s. 13.04(4) “legislative action” includes action by Committees of the Legislature exercising delegated legislative authority.

For these reasons, I conclude that Senator Farrow’s compensation upon taking the Office of Lt. Governor must be limited to \$60,183 per year.

Sincerely,

JAMES E. DOYLE  
Attorney General

**State of Wisconsin  
Office of the Governor**

April 4, 2001

The Honorable, The Senate:

On August 18, 1999, the Department of Administration entered into a lease with an option to purchase with Continental 93 Fund LLC for the new State Justice Center located in Block 84 on the Capitol Square. We have concluded that the purchase of this property would be in the best interests of the State and have included authorization for this purchase in the Capital Budget, which is being introduced concurrently with this letter.

The option to purchase provides for a purchase price of \$42,600,000, if we conclude the purchase before we take occupancy of the building which is currently projected to be September 1, 2001. However, if we purchase the property after the first occupancy, our costs will be \$1.2 million higher. It also appears that the Capital Budget will not be enacted into law prior to the occupancy of the building and we will be unable to save the \$1.2 million if we wait for passage of the Budget Bill. This issue was discussed at a recent meeting of the State Building Commission. The Building Commission is of the opinion that special legislation should be considered by the Legislature authorizing this purchase before the Budget Bill is enacted.

Section 16.47, Stats., provides that no appropriation bill shall be passed by the Legislature before the Budget Bill is enacted with the exception that the Governor can recommend passage of such a bill in an emergency situation. The Building Commission discussed the requirements of this statute and concluded that this situation is an emergency.

I concur and ask that **Senate Bill 144** be considered for immediate passage before enactment of the Budget Bill. your favorable consideration of this request would be appreciated.

Sincerely,  
SCOTT MCCALLUM  
Governor

**State of Wisconsin  
Joint Legislative Council**

April 24, 2001

The Honorable, The Senate:

I am pleased to transmit to you the following report to the 2001 Legislature on legislation introduced by the Joint Legislative Council.

- RL 2001–06 Legislation Recommended by the Special Committee on the Historic Building Code
- (2001 Assembly Bill 276 and Senate Bill 122)
- (2001 Assembly Bill 277 and Senate Bill 123)
- (2001 Assembly Joint Resolution 51 and Senate Joint Resolution 30)

I would appreciate your including this letter in the Journal for the information of the membership. Additional copies of this report are available at the Legislative Council Staff offices, One Est Main, Suite 401, or from our web page at [http://www.legis.state.wi.us/lc/reports\\_by\\_topic.htm](http://www.legis.state.wi.us/lc/reports_by_topic.htm).

Sincerely,  
TERRY C. ANDERSON

**State of Wisconsin  
Ethics Board**

April 24, 2001

The Honorable, The Senate:

The following lobbyists have been authorized to act on behalf of the organizations set opposite their names.

For more detailed information about these lobbyists and organizations and a complete list of organizations and people

authorized to lobby the 2001 session of the legislature, visit the Ethics Board's web site at <http://ethics.state.wi.us/>

Dickert, John T      **Karen Johnson Productions, Inc.**  
 Elliott, Brian      **Strong Capital Management Inc**  
 Essie, Patrick      **Insurance Auto Auctions Corp.**  
 Gunderson, Dan    **Issue Management Resources, LLC**  
 Haber, Darcy      **Wisconsin Citizen Action**  
 Handzel, Jr., Henry **Murphy Oil USA, Inc.**  
 Harrell, LaQuisha **Milwaukee Public Schools**  
 Haselow, Douglas **Association for Equity in Funding**  
**UA**  
 Hermes, Ronald    **Advantage Capital Partners**  
 Krings, Jerome D **NFO, Inc.**  
 Kuehn, Ronald W **Murphy Oil USA, Inc.**  
 Palmer, Todd      **Murphy Oil USA, Inc.**

Partenfelder-Moede, Peggy      **Insurance      Auto**  
**Auctions Corp.**  
 Reck, Donald F      **Northern States Power d/b/a Xcel**  
**Energy**  
 Sorenson, Gustave      **Wisconsin Paralyzed Veterans of**  
**America**  
 Springer, Thomas J      **Strong Capital Management Inc**  
 Stitt, Donald      **Strong Capital Management Inc**  
 Tenuta, James      **Advantage Capital Partners**  
 Also available from the Wisconsin Ethics Board are reports identifying the amount and value of time state agencies have spent to affect legislative action and reports of expenditures for lobbying activities filed by organizations that employ lobbyists.  
 Sincerely,  
 ROTH JUDD  
 Director